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The State Department's position with respect to

the entry, in War Department custody, of the German scientists and their families, should be this:

1. This problem is not to be confused with immigration which is governed by statutes binding the Consular Service and the State Department as well as the Immigration Service. The responsibility is placed by the President on the War Department alone. That responsibility should not be shifted by the War Department to the State Department by the device of granting now to these scientists a visa status.

2. This Department does not have the power to confer, under the law, and will not as a matter of policy confer, immigration status as a "sweetener" to induce voluntary acceptance by Germans of the War Department's program. This is a War Department responsibility and the War Department should provide the "sweetener" out of its own authority--in terms of rations, higher pay, good working conditions, and the like. This is the policy being followed by the British; if successful with the British, there is no reason why it should not be successful with us.

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3. The Department will not issue mass waivers of visa requirements even after the Germans have entered the United States. The power to waive a visa is limited to emergency cases which, as a matter of statutory construction, are confined to temporary entry of people in physical distress, such as persons needing an operation, or attending a dying relative, etc. The German scientists' situation has been dragging on, through the delays of the War and Navy Departments, for months; it cannot be argued that there is anything in the way of an emergency character that will prevent these Germans, when they get here and have qualified for immigration, going to Montreal or Mexico or Cuba in the usual way for visas.

If the Department of Justice has a contrary view, the Attorney General should write an opinion to the Secretary of State setting forth that view as a matter of law.

4. The Department must rely on the Army to conduct thoroughgoing investigations in Germany and, by way of surveillance, in the United States under the terms of the President's directive (that is to say, the SWNCC paper approved by the President). While the State Department reserves the right to call upon the FBI or other agencies for investigation sufficient to justify a decision with respect to the issuance of a visa, the duty is placed squarely

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squarely on the War Department to produce all necessary facts of a security nature. There is a duty on the War Department as sponsor and as the sole agency capable of conducting the type of investigation needed, and it should therefore devote the resources necessary for the purpose.

5. From the State Department's standpoint the chief factor in this case is that intelligence information now at hand has put the Department on notice that many of these German scientists have been and may now be associated in movements to conduct espionage in the United States, or to restore German military potential. This is a security problem which must be resolved only by the State Department since the State Department alone has a statutory responsibility for a decision with respect to the entry of these persons as visa immigrants.

6. Within the Department the security problems are solely in A-R and in no other Division of the Department in this regard. No action should be taken by any other Division affecting the satisfaction of immigration requirements.

7. The Department will cooperate fully with the Army in passing on individual cases and in aiding the investigations through advice, counsel, and guidance. The Department will not, however, supply any investigators,

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not having any to supply. The investigation called for by the SWGCC paper is limited to the military custody arrangement and is not geared to satisfying visa requirements. It was contemplated that such investigation would be commenced after the arrival of the Germans in military custody.

8. It is up to the War Department, therefore, to produce names of individual applicants for immigration, together with appropriate information to enable the Department to counsel the visa issuing offices with respect to each case.

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